"As held we do not believe on the record in this case that it has been proved that the addition of saccharin as sugar makes it adulterated or satisfies the decisions of some courts which hold that the government may prove any such standardization by the opinion of what the consumer expects. But the label amounts to a misbranding. If saccharin is to be used it should be so stated in sufficient sized type so that it may be read as easily as other parts of the label. Here the printed word 'saccharin' is so small that one is unable to read it without the aid of a magnifying glass. Section 403 (f) of the Act requires labeling

> in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

"Thus the generally recognized rule that no illegal substitution occurs where a replacement is made, in whole or in part, with another substance not injurious or deleterious to health, provided the name of the substance substituted appears on the label, governs in these proceedings. And we are not confusing adulteration with misbranding, United States v. 36 Drums of Pop'n Oil, supra.

"It is ordered therefore that the product seized be and the same is hereby condemned for misbranding."

DISPOSITION: In accordance with the above opinion, the court, on October 2, 1952, found that the food was not adulterated but was misbranded within the meaning of Sections 403 (a), (f), and (k), and entered a decree providing for condemnation and destruction of the product.

**18852. Adulteration of coffee concentrate. U. S. v. 25 Cases * * *.** (F. D. C. No. 32685. Sample No. 35509–L.)

LIBEL FILED: February 20, 1952, Western District of Wisconsin.

ALLEGED SHIPMENT: On or about October 22, 1951, from Dubuque, Iowa.

PRODUCT: 25 cases, each containing 24 6-ounce bottles, of coffee concentrate at Holmen, Wis.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance. Examination disclosed that the product was undergoing progressive decomposition. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: August 8, 1952. Default decree of forfeiture and destruction.

**18853. Misbranding of tea. U. S. v. 32 Cases * * *.** (F. D. C. No. 32865. Sample No. 22226–L.)

LIBEL FILED: March 10, 1952, Northern District of Alabama.

ALLEGED SHIPMENT: On or about March 27, 1951, by American Tea & Coffee Co., Inc., from Nashville, Tenn.

PRODUCT: 32 cases, each containing 48 4-ounce packages, of tea at Florence, Ala.

LABEL, IN PART: "Net Weight 4 Ozs. American Ace Brand."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents since the packages contained less than the labeled 4 ounces.

DISPOSITION: April 24, 1952. American Tea & Coffee Co., Inc., having appeared as claimant, judgment of condemnation was entered and the court ordered that the product be released under bond to be repackaged to correct weight, under the supervision of the Food and Drug Administration.